

REMARKS/ARGUMENTS

Claims 48-81, 83-91 and 93-95 are pending herein. Claim 48 has been amended as supported by page 17, line 21--page 18, line 6 of the substitute specification, for example. Claim 49 has been rewritten in independent form. Claims 51-57, 59-60, 67-69, 83-84, 86, 89-91 and 93 have been amended to correct matters of form only. Claim 82 has been cancelled in favor of the amendment to claim 61. Claim 92 has been cancelled in favor of new claim 95. Applicants respectfully submit that no new matter has been added.

1. The objection to claims 49 and 82 is noted, but deemed moot in view of the amended claims submitted herewith. Accordingly, Applicants respectfully request that the objection be reconsidered and withdrawn.

2. Claims 48-58, 61-67, 70, 73, 79, 82-91 and 94 were rejected under the doctrine of obviousness-type double patenting over Takeuchi, U.S. Patent 6,542,658. Further, claims 48-58, 61-91 and 94 were provisionally rejected under the doctrine of obviousness-type double patenting over co-pending Application No. 10/027,773. Applicants respectfully submit that the Terminal Disclaimer filed herewith (in Appendix C) obviates any potential obviousness-type double patenting rejections over the claims in the '658 patent and '773 application. Therefore, Applicants respectfully request that the obviousness-type double patenting rejections be reconsidered and withdrawn.

3. Claims 48, 52, 53, 56-58, 61, 62, 64-69, 73-78 and 87-91 were rejected under §102(e) over Jurbergs. To the extent that this rejection might be applied against amended claims 48, 61 and new claim 95, it is respectfully traversed. Pending independent claims 48 and 95 recite, among other things, that the light transmission portion has a light reflecting plane provided on at least one part of a plane facing the optical path changing portion to totally reflect light, and light transmission channels having optical wave guiding bodies and being provided in at least three directions with

the light reflecting plane as a starting point. The optical path changing portion is provided in proximity to the light reflecting plane of the light transmission portion in a movable condition and has an optical path changing member for at least *diffusely* reflecting or scattering light, so as to: (1) totally reflect an input light from the light transmission channels at the light reflecting plane of the light transmission portion and transmit it to a specific light transmission channel on an output side when the optical path changing portion is separated from the light reflecting plane of the light transmission portion, or (2) take out an input light from the light transmission channel, *diffusely* reflect or scatter it at the optical path changing portion and transmit it to a specific one or more light transmission channels on the output side when the optical path changing portion is contacted to the light reflecting plane of the light transmission portion.

In summary, the input light is totally reflected by the light reflecting plane of the light transmission portion when the optical path changing portion is separated from the light reflecting plane of the light transmission portion and *diffusely* reflected or scattered by the optical path changing portion when the optical path changing portion is contacted to the light reflecting plane of the light transmission portion, so that the light is transmitted to one or more light transmission channels on the output side.

Jurbergs discloses an optical switch wherein the switching of an optical path is carried out by contacting or separating the optical path changing portion to or from the light reflecting plane to transmit the light to *a specific light transmission channel*. Applicants respectfully submit that Jurbergs does not teach or suggest that the input light is *diffusely* reflected or scattered and transmitted to a specific one *or more* light transmission channels on the output side, as recited in pending independent claims 48 and 95.

For at least the foregoing reasons, Applicants respectfully submit that claims 48 and 95 and all claims that depend therefrom define patentable subject matter over Jurbergs and thus are in condition for allowance. It is noteworthy that the “diffusely” feature recited in claims 48 and 95 is essentially the same as features recited in allowable dependent claims (see claim 59, for example).

Claim 61 has been amended to include all of the limitations of allowable (now cancelled) claim 82. Therefore, Applicants respectfully submit that claim 61 and all claims that depend therefrom define patentable subject matter over Jurbergs and thus are in condition for allowance.

4. Claims 49-51, 54, 59, 60, 63, 70-72, 82-85 and 92-94 were objected to as being dependent on a rejected base claim. Applicants appreciate the Examiner indicating that these claims would be allowable if rewritten in independent form and if all double patenting issues were overcome. Applicants respectfully submit that the Terminal Disclaimer filed herewith obviates the aforementioned double patenting issues. Additionally, claim 49 has been rewritten in independent form to include all of the limitations of claim 48 and claim 92 has been cancelled in favor of new independent claim 95. Claims 63, 70-72 and 82-85 depend from claim 61 which Applicants respectfully submit is in condition for allowance. As such, Applicants respectfully submit that claims 49-51, 54, 59, 60, 63, 70-72, 82-85 and 93-94 are in condition for allowance as presently pending. Accordingly, Applicants respectfully request that the objection be reconsidered and withdrawn.

5. Claims 55, 79-81 and 86 were rejected under §103(a) over Jurbergs. Claim 55 depends from claim 49 and claims 79-81 and 86 depend from claim 61, which Applicants respectfully submit are in condition for allowance. Therefore, Applicants respectfully submit that claims 55, 79-81 and 86 are in condition for allowance as presently pending.

For at least the foregoing reasons, Applicants respectfully submit that this application is in condition for allowance. Accordingly, the PTO is requested to issue a Notice of Allowance as soon as possible.

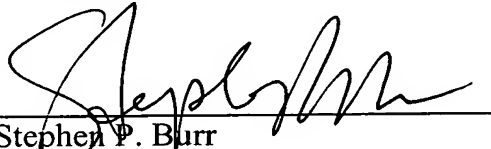
If the Examiner believes that contact with Applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call Applicants' attorney at the phone number noted below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

Respectfully submitted,

March 15, 2004

Date



Stephen P. Burr
Reg. No. 32,970

SPB/SEC/gmh

Attachments

Appendix A - substitute specification

Appendix B - marked-up specification

Appendix C - Terminal Disclaimer

BURR & BROWN

P.O. Box 7068

Syracuse, NY 13261-7068

Customer No.: 025191

Telephone: (315) 233-8300

Facsimile: (315) 233-8320